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REPORT BY THE U.S.

# General Accounting Office

## Information On The Federal Highway Administration's Disadvantaged Business Enterprise Program

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The Surface Transportation Assistance Act of 1982 requires that, unless otherwise authorized by the Secretary of Transportation, at least 10 percent of the federal-aid highway program funds expended by the states be awarded to small business concerns owned and controlled by socially and economically disadvantaged individuals. Because the act was passed in January 1983, 3 months into fiscal year 1983, the Federal Highway Administration established a national goal of 8.8 percent for the year. According to the Federal Highway Administration, the goal was exceeded with disadvantaged individual businesses receiving about $800 million, or 9.8 percent, of the nation's federally aided highway contract funds.

GAO presents a state-by-state breakdown of the number of disadvantaged business enterprises certified to do highway work in the 50 states and the District of Columbia. GAO also provides information on training and assistance programs--business-related and technical--offered to such businesses by the public and private sectors and identifies financial problems generally affecting disadvantaged business enterprises across the nation.

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RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION

B-215458

The Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate

The Honorable Steve Symms
Chairman, Subcommittee on Transportation
Committee on Environment and Public Works
United States Senate

The Honorable Lloyd Bentsen
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

In a June 20, 1983, letter, you requested certain information on the Disadvantaged Business Enterprise (DBE) program administered by the Federal Highway Administration (FHWA), Department of Transportation. The program, authorized by section 105(f) of the Surface Transportation Assistance Act of 1982, requires that, unless otherwise determined by the Secretary of Transportation, at least 10 percent of the federal-aid highway program funds a state will expend in the fiscal year be awarded to DBEs.[1] Based on your letter and subsequent discussions with your offices, we agreed to provide you with information on

--the number of DBEs certified by state and the types of information on DBEs provided in state directories;

--the capabilities and expertise of existing DBEs in six states to perform highway work;

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[1]A DBE is a business concern that (1) is owned and controlled by one or more socially and economically disadvantaged individuals and (2) meets the Small Business Administration's definition of a "small business," based on the business's average annual sales volume or on its number of employees. Individuals presumed by regulation to be socially and economically disadvantaged are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. Any individual may be determined to be eligible on a case-by-case basis. Appendix II contains the detailed requirements for these determinations.

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--use of out-of-state DBE contractors by the six states;

--training programs available for DBEs, including both public- and private-sector programs; and

--financial problems affecting the ability of DBEs to participate in highway work, including problems with bonding, licensing, and prequalification.

In brief, the latest state directories available as of September 1984 show that 7,106 individual DBE firms were certified in the United States.

Data contained in state and federal records for the six states reviewed--Colorado, Florida, Illinois, Maine, New Hampshire, and North Dakota--indicated that capabilities exist among the certified DBEs to perform 10 percent of the highway work needed by these states. Meeting these goals, however, may be constrained by the timing and location of highway jobs and competing demands on DBEs' resources from other federal, state, and local programs. Sufficient data were not available in federal or state records for us to make a determination of DBEs' expertise to do highway work.

Out-of-state DBEs performed federally aided highway work in all six states we reviewed. According to highway officials in each of the six states, out-of-state and in-state DBEs are notified of upcoming work in the same manner. In all states except New Hampshire, however, out-of-state DBEs received relatively few of the total DBE-awarded contracts during the period of our review. New Hampshire awarded the majority of its DBE contracts to out-of-state DBEs.

Training and assistance were available to DBEs in all the states we reviewed, though in varying degrees. Much of the training targeted specifically at DBEs in highway construction was given by the states, with FHWA funding. Other training was available to DBEs through the Small Business Administration and the Department of Commerce's Minority Business Development Agency, although these programs were not targeted specifically at highway construction businesses. Contractors and contractor and minority association officials told us that little training specifically directed at DBEs was available from the private sector, that is, nongovernmental entities.

DBEs and state officials in the six states reviewed, as well as federal and association officials, cited the difficulty in obtaining bonds, slow payment to subcontractors by prime contractors, withholding of a portion of payment by prime contractors, and obtaining operating loans as financial problems encountered by DBEs. Such problems, according to several of the federal and state officials we interviewed, are considered common to small businesses in general. Based on our review, we found that the problems identified above had little adverse affect on the DBEs' overall ability to obtain highway construction work. There were no reported problems with licensing or prequalification.

## OBJECTIVES, SCOPE, AND METHODOLOGY

Our objective was to provide the information requested and agreed to as discussed on page 2.

We obtained information on the number and locations of DBEs nationwide from the states' DBE directories. The directories also contain a range of information on DBE firms, such as location, types of work performed, bonding availability, number of employees, and types of equipment owned and/or operated. These directories list all DBEs certified for highway construction work. We obtained available information on DBEs' capabilities and use of out-of-state DBEs from federal and state files for the states of Colorado, Florida, Illinois, Maine, New Hampshire, and North Dakota.

Information on training programs available to and financial problems affecting DBEs was obtained by interviewing 71 of the 662 DBEs in the six states; representatives of minority and contractor organizations involved in highway construction work; and officials of FHWA, other federal agencies, and the state highway departments. Our selection of DBEs was not based on a projectable, statistical sample basis. (See app. I for detailed information on the objectives, scope, and methodology.)

We performed our review in accordance with generally accepted government auditing standards. Our field work was conducted from November 1983 through July 1984.

## HISTORY OF FHWA's DBE PROGRAM

Although not congressionally mandated until 1983 by the Surface Transportation Assistance Act, the use of minority businesses in highway work is not new. Since 1975, FHWA has promoted increased use of minority businesses in federal-aid highway work.

In 1975, FHWA (1) requested the states to prequalify and license 500 minority businesses that could be used as federal-aid highway subcontractors, (2) directed the state highway departments and FHWA field offices to review state contracting requirements and try to change or eliminate those requirements that unfavorably affected minority subcontractors and small prime contractors, and (3) required states to maintain directories of interested minority businesses and distribute the directories to prime contractors. FHWA also required federal-aid highway contractors to solicit bids from minority firms and encouraged states to establish innovative programs to help minority and small business firms compete for highway work. It also began recording the percentages of highway funds spent with minority businesses.

In 1977 FHWA began setting nationwide goals for minority business participation in federal-aid highway work. In 1980, the



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Department of Transportation issued regulations that mandated that all recipients (states and transportation agencies) of transportation funds have a minority business enterprise (MBE) program. These regulations, modified in April 1981, included the FHWA requirements noted above and required states to prepare MBE programs, set individual contract goals for MBE participation, and certify eligible MBEs. The regulations also required the states to ensure that contractors made and documented good-faith efforts to meet contract goals.

Following passage of the 1982 Surface Transportation Assistance Act, the Department of Transportation in February 1983 implemented the act's provision for the use of DBEs in federal highway work by proposing rules to carry out section 105(f), and in April 1983 issued a notice of interim policy. Final regulations governing the administration of the DBE program became effective in August 1983 and changed the name of the program from MBE to DBE. These regulations require that, unless otherwise determined by the Secretary of Transportation, at least 10 percent of all federal-aid highway funds spent by recipients be awarded to DBE contractors.

According to FHWA records, the amounts and percentages of funds going to minority businesses have steadily increased. In 1975, when FHWA began recording MBE participation, they were receiving $32.5 million, or about .5 percent, of the nation's highway contract funds. By 1982 MBEs' receipt of funds had increased to $415.5 million, or about 5 percent, and in 1983, when section 105(f) took effect, DBEs received nearly $800 million, or 9.8 percent, of the nation's highway contract funds.

Although 10-percent DBE participation was nearly achieved on a nationwide basis in 1983, not all states individually achieved 10-percent participation, nor were all required to. Because the act was passed in January 1983, 3 months into fiscal year 1983, FHWA established a national goal of 8.8 percent for the year. Of the 52 governmental entities (the 50 states, the District of Columbia, and Puerto Rico), 45 had fiscal year 1983 goals of less than 10 percent. This was because FHWA calculated each entity's 1983 goal by prorating the initial 1983 goals (set prior to enactment of the Surface Transportation Assistance Act) for the first 3 months of 1983 and the act's 10-percent provision for the remaining 9 months. Appendix III contains the goals set and achievements for all entities for fiscal year 1983 as reported by FHWA.

Thirteen states, including three of the states in our review--Florida, Illinois, and North Dakota--did not meet their 1983 goals and submitted explanations to FHWA of why the goals were not met. Three primary reasons were given: (1) seven states said that a high percentage of contracts were awarded prior to FHWA's setting the new goals required by the act and it was impractical to increase DBE participation on the remaining contracts

to achieve an overall higher goal; (2) four states cited insufficient DBE availability, in part because the DBEs were working to capacity on other jobs; and (3) two states cited a retroactive August 1983 FHWA decision to not allow states to count state-matching funds spent with DBEs toward meeting their goals as was previously allowed under the MBE program.

The goals approved by FHWA and the achievements for fiscal year 1983 for the six states we reviewed are shown in appendix IV.

## NUMBERS OF DBEs AND TYPES OF INFORMATION IN STATE DIRECTORIES

The latest state DBE directories available provide general information concerning the number, location, and types of work of DBE firms certified to perform highway construction work in the United States. Certification of DBEs is made either by the Small Business Administration or by the states receiving DBE assistance. To be certified as a DBE firm, at least 51 percent of the business must be owned by a socially and economically disadvantaged individual or individuals. In addition, active management and operations of the firm must be controlled by one or more of those individuals. As of September 1984, the DBE directories of 51 governmental entities (Puerto Rico does not have a directory) listed 9,387 DBE contractors certified for highway construction work. Duplications exist, however, because many contractors are certified in more than one state. Of the 9,387 DBEs listed, 7,106 are listed as "in state" and 2,281 as "out of state."

The directories also contain a range of information on DBE firms, such as location, types of work performed, bonding availability, number of employees, and types of equipment owned and/or operated by the DBE. Appendix V contains details on the types of information contained in each state's directory.

## DBEs' CAPABILITIES AND EXPERTISE

The states' certification processes are intended only to determine DBEs' program eligibility; they do not assess DBEs' financial or technical capabilities. State records contain data, however, that to some extent are indicators of DBEs' capabilities and expertise to perform highway construction work.

For example, applicants for DBE certification provide information on the types of work they do (an indicator of their capabilities) and on their past sales volumes (an indicator of the extent of their capabilities). Data indicating DBEs' expertise include information on (1) types of work actually done in highway contracting, (2) bonding experience, and (3) prequalification for performing highway work. We believe bonding eligibility and prequalification are good indicators of expertise because both



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involve an independent investigation of technical and financial performance. However, not all of the applications in the files contained data on bonding eligibility and prequalification; therefore, we were unable to make a determination of DBEs' expertise to perform highway work.

We determined that the DBEs' capabilities, based on the above indicators, appeared sufficient to meet 10 percent of the federal-aid highway construction contract commitments in each of the six states. Each state has certified DBEs that can do most types of work required in highway projects and the DBEs' reported sales volume is greater than a minimum 10-percent goal. Further, the number and sales volume of only those contractors who actively bid and have evidenced expertise in doing the types of work required also appeared sufficient to meet a minimum 10-percent goal for the six states.

The following table compares the estimated work volume of experienced and active DBEs with the states' 1983 highway construction needs.

Comparison of DBEs' Estimated Sales Volume and 1983 Construction Needs in Six States

(in thousands of dollars)

| State | States' construction contracts and commitments | Ten percent of contracts and commitments | Estimated sales volume of DBEs |
|---|---|---|---|
| Colorado | $177,763 | $17,776 | $ 67,323 |
| Florida | 388,211 | 38,821 | 90,950 |
| Illinois | 823,990 | 82,399 | 122,482 |
| Maine | 40,114 | 4,011 | 6,831 |
| New Hampshire | 46,990 | 4,699 | 18,132 |
| North Dakota | 93,071 | 9,307 | 10,702 |

Note: appendix VI contains a detailed summary by type of work.

Although the above data indicate that DBEs have sufficient capabilities to meet a 10-percent goal, DBEs are not necessarily available for all highway construction projects. For example, capable DBE contractors may not be available at the time contracts are let. Conditions affecting their availability include such factors as the location of the work and competing job opportunities. Our review of contractors' applications for DBE status showed that many contractors prefer work that is close to their base of operations. The percentage of DBEs who cited a preference for work in limited areas versus a willingness to work anywhere within the state ranges from zero percent in New Hampshire to 63 percent in Illinois.

DBEs' availability can be constrained by competing job opportunities with other organizations, some of which have disadvantaged business programs. According to state and federal officials, other federal agencies that have construction-related disadvantaged business programs include the Department of Housing and Urban Development; the Environmental Protection Agency; and the Urban Mass Transportation Administration, the United States Coast Guard, and the Federal Aviation Administration, all within the Department of Transportation.

States, as well as some local governmental entities, also have disadvantaged business programs in addition to the federal program. For example, Florida, Illinois, and Colorado have established DBE goals in the expenditure of their own state funds for highway construction. As a consequence, state-funded contracts with DBE goals compete for available DBEs that can be used in federally funded highway work. For example, Illinois cited the state goal as a cause of contractor unavailability to meet its 1983 FHWA goal. In its justification letter to FHWA for not meeting its goal, Illinois stated that $5.5 million in contract commitments to DBEs was made for state-only work and accounted for 40 percent of the shortfall between the FHWA goal and actual achievements.

North Dakota also did not meet its 1983 goal. In a letter to FHWA to explain why the state had not met the goal, it cited the fact that (1) its DBE population is primarily American Indian and (2) Indian DBEs preferred doing construction work on the state's four Indian reservations where they reside as opposed to work being offered on federal-aid highways. In addition, contracting procedures in the state of Colorado require that the lowest bidder on highway construction projects be awarded the contract. DBEs may not always be the lowest bidders.

## USE OF OUT-OF-STATE CONTRACTORS

Each of the six states has out-of-state DBEs included in its directory. Highway officials in three of the states--Maine, New Hampshire, and North Dakota--told us they have made extensive efforts to obtain out-of-state DBEs because of the small number of DBEs they have been able to locate in their respective states. During the period from January 1, 1983, through the date we started our review in each state, out-of-state contractors were added to the state directories as follows.



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Out-of-state DBEs in Six State Directories

| | State | | | | | |
|---|---|---|---|---|---|---|
| | CO | FL | IL | ME | NH | ND |
| Latest directory: | | | | | | |
| Date | 01/84 | 11/83 | 10/83 | 12/83 | 01/84 | 09/83 |
| Total DBEs | 116 | 115 | 324 | 22 | 36 | 49 |
| Out-of-state DBEs | 13 | 17 | 40 | 12 | 32 | 5 |
| Out-of-state DBEs added since 01/83 | 3 | 12 | 23 | 4 | 20 | 4 |

According to highway officials in each of the six states, out-of-state and in-state DBEs are notified of upcoming work by mail. All except New Hampshire officials said that they receive little response from out-of-state DBEs. Prime contractors told us that they usually solicit bids from in-state DBEs before going to out-of-state DBEs for subcontracting work, and they do not believe that out-of-state DBEs will normally bid on the small subcontracts they have to offer. These statements from highway officials and prime contractors are reflected in the number of awards made to DBEs during the period covered by our review. As shown below, five of the six states we reviewed awarded relatively few DBE contracts to out-of-state DBEs. New Hampshire, however, awarded 63 percent of its DBE contracts to out-of-state DBEs.

Federally Assisted Highway Awards to DBEs in Six States

| | State | | | | | |
|---|---|---|---|---|---|---|
| | CO | FL | IL | ME | NH | ND |
| DBE awards during period October 1982 to: | 01/84 | 11/83 | 10/83 | 12/83 | 01/84 | 09/83 |
| Total | 161 | 236 | 427 | 46 | 75 | 44 |
| To out-of-state | 13 | 21 | 11 | 1 | 47 | 8 |
| Percent of awards made to out-of-state DBEs | 8 | 9 | 3 | 2 | 63 | 18 |

TRAINING AVAILABLE TO DBEs

Business and related training or assistance directly from or sponsored by federal agencies is available to minority businesses, including DBEs, in all of the six states we reviewed. State highway departments in the six states generally provide training and assistance financed by support service funds from FHWA. Also, the Small Business Administration, the Department of Commerce, and the



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Department of Transportation each have programs that assist minority businesses, although not all programs are available in every state nor are they directed specifically at highway contractors. The Department of Transportation program is in addition to FHWA's program. These agencies provide individual assistance as well as group training on subjects such as setting up and operating small businesses.

According to cognizant sources such as highway contractors and minority organizations, little training is specifically directed at DBEs by the private sector. We did find, however, that some on-the-job training and individual assistance was provided by prime contractors.

Appendix VII shows the types and sources of training available in each of the six states. It also shows, where data were available, the number of highway-related DBEs assisted.

Federal Highway Administration-funded training

The states provide much DBE training and assistance with FHWA's support services funds, for which the Congress has authorized up to $10 million for fiscal year 1984 from the Highway Trust Fund. Support service contractors provide most of the training and assistance. These support service contractors generally assist DBE contractors in preparing bids, reading specifications, scheduling work, keeping accounts and records, preparing and processing paperwork, resolving disputes, preparing loan and bond applications, and learning and applying marketing strategies.

FHWA has been providing support service funds to the states to assist with DBE program administration since 1977. Annual funding averaged about $3.8 million until 1984, when it increased to over $9 million. States may provide support services themselves or may contract them out.

Four of the six states we reviewed (Colorado, Illinois, North Dakota, and New Hampshire) used support service contractors to provide training and assistance to DBEs. Florida had not had a contractor since August 1983 but was in the process of advertising for one. In the interim, the state provided no DBE training or assistance. However, in 1984, the Florida State Legislature authorized a construction management training program for DBEs. The program is to be developed by training contractors and will be designed to provide training in basic management and business skills. Maine had not had a support services contractor since 1982 but during 1983 provided technical assistance to DBEs using state staff, and in 1984 provided such support using a number of consultants. Also, Florida and Maine were both considering using prime contractors to train DBE subcontractors on the job, with reimbursement to the primes included as part of the project cost. In commenting on our draft report, the Maine Department of Transportation informed us that in 1984, it implemented a training incentive program. This program is being implemented through a formalized amendment to a project's contract whereby the prime contractor agrees to provide technical assistance directly to a DBE.



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## Other federal agency training

Three federal entities--the Small Business Administration, the Department of Commerce's Minority Business Development Agency, and the Office of Small and Disadvantaged Business Utilization, part of the Office of the Secretary of Transportation--have programs targeted at minority businesses including DBEs. The first two have programs that assist minority businesses, in general, with financial, technical, and managerial functions. The third has a program to assist transportation-related DBEs. This program is primarily directed toward identifying minority firms with transportation-related capabilities and disseminating information on federal buying needs.

### Small Business Administration

The Small Business Administration's primary purpose is to assist small businesses by providing training and assistance, loans, and bond guaranty programs. Its 1983 appropriation was $275 million, of which $22 million was targeted at minority business assistance. No targets were established specifically for DBEs. Through its 103 district offices (located in the 50 states, Puerto Rico, and the District of Columbia), the agency reported assisting 100,935 minority businesses nationwide in 1983. Data on the number of assisted DBEs certified in the highway program were unavailable.

Using various sources, the agency offers several types of training and assistance, some of which are provided at the DBEs' sites. Agency management counselors give seminars and provide individual assistance to small businesses. The agency also provides experienced volunteers, through the Active Corps of Executives and the Senior Corps of Retired Executives, to assist businesses with management and technical problems. It provides technical assistance through contractors (primarily accounting firms), and its Small Business Development Centers and Small Business Institute Programs, offered through colleges and universities, provide managerial and technical assistance.

### Minority Business Development Agency

The Department of Commerce's Minority Business Development Agency has several programs for minority businesses, but the two most relevant to highway contracting businesses are the Minority Business Development Center Program and the American Indian Program. The first is a national network of about 100 contractor-operated centers providing financial, management, and technical assistance to all minority entrepreneurs. The second offers identical services to American Indians through eight centers. With a fiscal year 1983 budget of $30.5 million, these two programs assisted 16,541 minority firms by providing seminars and individual counseling. The minority firms pay a nominal fee for services given at the centers.

### Office of Small and Disadvantaged Business Utilization

The Office of Small and Disadvantaged Business Utilization sponsored 14 Program Management Centers in fiscal year 1983, three Hispanic centers, and one American Indian center. The center's activities are not specifically targeted at highways. Their primary purpose is to locate DBEs that can provide goods and services to the various Department of Transportation agencies, including FHWA. During 1983, these centers' contracts totaled $3,441,464. Services provided nationwide included locating new DBEs, providing or sponsoring seminars, assisting DBEs in preparing bond and loan applications, disseminating procurement information, and providing specific managerial assistance (e.g., accounting services) to aid businesses in identifying contracting opportunities.

According to the centers' activity reports, most center activities were related to disseminating procurement information; few were related to providing other assistance.

### Private sector training and assistance

Based on interviews with highway contractors and minority associations, little private sector training was directed specifically at DBEs in the states we reviewed. The only instances we found were: (1) in North Dakota a local affiliate of the Associated General Contractors of America provided the curriculum for a supervisory training course to the state highway department for use in a training course for DBEs; (2) an affiliate of the American Road and Transport Builders' Association in Illinois provided a $1,000 contribution and co-sponsorship for a training course for DBEs given at a local state university that also co-sponsored the training along with the state highway department; and (3) a Chicago-based national minority association of engineers told us that it provides training to members who desire to start a business.

We found more assistance than training being given by the private sector, and that was provided by prime contractors. Of the 40 prime contractors we interviewed, 28--at least 4 in every state--told us that on-the-job advice or financial support had been provided by them to individual DBE subcontractors.

## FINANCIAL PROBLEMS ENCOUNTERED BY DBEs

DBEs and state officials in the six states reviewed, as well as federal and association officials, cited difficulties in obtaining bonds and operating capital--slow payment to subcontractors by prime contractors, withholding of a portion of payment, and obtaining operating loans--as financial problems encountered by DBEs. However, several federal and state officials also told us that these problems are common to small businesses in general.

Two of the officials we interviewed, a national subcontractor association representative and a support service official, said that while the problem was common to all small businesses, DBEs and non-DBEs alike, it affected DBEs more since they are apt to be at the lower end of the economic scale where the need for operating capital is greater. Actions have been taken or proposed by the Department of Transportation, state, and prime contractors to alleviate some of these problems. There were no reported problems with either licensing or prequalification.

Bonding, licensing, and prequalification

According to state, association, and contractor officials we interviewed, state requirements for licensing and prequalification do not present a barrier to DBEs. Bonding, however, because of requirements imposed by prime contractors, presents some problems to DBEs wishing to work as subcontractors, and the state requirements for bonding on prime contracts can present a barrier to DBEs wishing to work as prime contractors. None of the six states we reviewed require bonding for subcontractors. Similarly, none of the six states reviewed require prequalification for subcontractors. However, two of the six states (New Hampshire and North Dakota) do require licensing of both prime and subcontractors. None of those officials (state, association, and contractor) we interviewed believed prequalification or licensing requirements posed problems to DBEs. Appendixes VIII, IX, and X show the requirements of the 50 states, Puerto Rico, and the District of Columbia.

Bonding

A bond is a guarantee by a third party that work contracted for will be successfully completed. Two types of bonds generally used by states are performance and payment bonds. A performance bond guarantees that what is contracted for will be delivered. A payment bond guarantees that those supplying materials and labor will be paid.

None of the six states we reviewed required that subcontractors be bonded; instead, all required prime contractors to supply bonds covering the entire contract. Twenty-one of 40 prime contractors we interviewed said that they generally require their subcontractors to provide bonds to cover their work, but 7 said that they often waive the bonding requirement for DBEs. Of 71 DBEs we interviewed, 3 told us that they lost highway work because they could not obtain a bond. According to state, FHWA, and association officials, bonding requirements make it difficult for DBEs to obtain highway work. Because bonding companies investigate technical and financial performance before issuing a bond, an established work record is important. State and association officials added that the problem might have a greater impact on DBEs because they are more likely to be new businesses. They told us, however, that difficulty in obtaining a bond is not limited to

DBEs but can be a problem for any small business, especially a new one that does not have an established work record.

In North Dakota, where two DBEs said they lost work because of a bonding requirement, a complication exists that was not found in the other five states. According to American Indian DBEs and state officials, it is difficult for DBEs located on a reservation to obtain bonds. A reason given for this is that reservations are not subject to state law and bonding companies have no access, other than through federal courts, to a DBE's assets in case of a contract default. Because of the access problems, banks also are reluctant to provide financing to Indian firms, which decreases the firms' abilities to obtain bonding.

In 1984, Florida legislated a state bond guarantee program to provide bonding assistance to DBE prime contractors. According to Florida transportation officials, the state requires all prime contractors to provide a bond, and this requirement could result in DBEs being unable to obtain contracts because of their inability to obtain bonding. Procedures are being prepared to implement the program during 1985.

At the federal level, some bonding assistance is provided by the Small Business Administration through a guarantee program with bonding companies. During fiscal year 1983 the Administration provided 1,490 bond guarantees to minority firms. Information was not readily available on how many highway-program-certified DBEs received these bonds. The Department of Transportation also participates in a program with a bonding company to provide bonding to DBEs for highway work. This program started in December 1983, and as of June 30, 1984, eight bonds totalling $1,282,763 had been provided to highway DBEs.

Licensing

The state licensing requirements vary, with 16 states requiring licensing of both subcontractors and prime contractors, an additional 5 states requiring licensing of only prime contractors, and the remaining 29 states, the District of Columbia, and Puerto Rico having no licensing requirements. Two of the six states reviewed do require licensing of prime and subcontractors--New Hampshire requires licensing of certain technical trades, i.e., electricians and plumbers, and North Dakota requires licensing of contractors when the award is over $500. None of the officials, association representatives, or contractors we interviewed said that obtaining a license caused difficulties for DBEs.

Prequalification

Prequalification is a state procedure that looks into the qualifications of contractors to do highway contracting. The state usually requires an applicant to submit certified financial

reports, experience and qualification data on key personnel, equipment availability, and past performance--much as a bonding company does. Prequalification is required of both prime and subcontractors in 10 states and of prime contractors only in 30 states. No requirement existed for the remaining 10 states, the District of Columbia, and Puerto Rico. Of the six states we reviewed, five (Colorado, Florida, Illinois, New Hampshire, and North Dakota) had prequalification requirements for prime contractors only, while one state (Maine) had no prequalification requirement for either prime or subcontractors. None of the state officials or DBEs we interviewed in the five states with this requirement said that prequalification presented a problem.

Operating capital

A lack of operating capital--the availability of cash to pay for labor and materials and equipment--was a problem mentioned by DBEs, associations, or officials in each of the six states we reviewed. Fourteen of the 71 DBEs interviewed told us that they have had operating capital problems. Problems specifically cited were slow payment by prime contractors, withholding of partial payments by prime contractors until work is completed and accepted by the state, and general difficulty in obtaining operating loans. Two of the 14 DBEs told us that the lack of cash flow created by these problems had reduced the number of jobs they could bid on. Another DBE said these problems partially contributed to his going out of business temporarily. Two of the officials we interviewed, a national subcontractor association representative and a support services official, said that while the problem was common to all contractors, DBEs and non-DBEs alike, it affected DBEs more since they are more apt to be at the lower end of the economic scale where the need for operating capital is greater.

Slow payment to subcontractors

Slow payment to subcontractors was mentioned as a problem by DBEs or officials in four of the six states we reviewed--Colorado, Florida, Illinois, and New Hampshire--and by subcontractors' association officials. Seven of the 71 DBEs we interviewed told us that prime contractors had occasionally been slow in paying them or that states had been slow in paying prime contractors and this resulted in delayed payments to the DBE subcontractors. Three of the seven DBEs also advised that slow payment had caused a drain on their operating capital. Also, Illinois officials told us that the city of Chicago had been slow in paying prime contractors and, in turn, payment was slow to subcontractors. These state officials said that they met with Chicago officials to suggest ways to improve city payment procedures but that Chicago, as a self-governing entity, has the final decision on changes. According to the American Subcontractors Association, the slow payment problem exists for all subcontractors, not just DBEs.



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Progress payments

Apart from slow payments, all six states have procedures to withhold a portion of progress payments due prime contractors until the work is completed and accepted by the state. Amounts withheld vary up to 10 percent of the total amount due. Subcontractors are usually subject to the same requirement, having payment withheld by the prime contractor in like amounts. DBEs in the states we reviewed told us that funds were sometimes withheld until the total contract was accepted by the state even though the DBEs' work had been completed earlier.

We were also told by DBEs of instances where funds withheld by prime contractors were in larger percentages than those being withheld by states. For example, in Illinois 2 percent of the funds are withheld from prime contractors by the state and that amount is placed into an interest-bearing account for the prime contractor's benefit. An Illinois support services official told us that frequently 10 percent of funds are withheld--without payment of interest--by the prime contractor from DBEs, but that this is negotiated between the prime contractors and the subcontractors. Four of the 71 DBEs we interviewed in the six states told us that withholding funds adversely affected their operating capital and consequently reduced the number of jobs they could bid on.

Loans

Difficulty in obtaining operating capital loans was mentioned as a problem by DBEs in three states we reviewed--Colorado, Illinois, and North Dakota. Six DBEs told us that financial institutions have been reluctant to provide loans to them for such reasons as lack of collateral and lack of bonding. Two said that this has reduced the number of jobs on which they bid.

At the federal level, several actions are being taken to alleviate operating loan problems of DBEs. The Department of Transportation and the Small Business Administration have lending programs for small businesses. The Department of Transportation entered into an agreement with a commercial lender starting in December 1982 to provide up to 75 percent of individual loans to DBEs nationwide for transportation-related programs. Through November 7, 1984, 29 individual loans totalling $3.2 million were made to DBEs under the program. The Small Business Administration has loan programs for providing working capital to small businesses and to disadvantaged firms. Data were not readily available on how many loans the Administration made to highway-certified DBE firms, but it did make 2,672 loans totalling $294.5 million to minority firms in fiscal year 1983.

In Colorado, a small business loan program was established during fiscal year 1984. According to a support services official, that program made available $150 million for loans to small businesses, including DBEs, in Colorado only.

At the contractor level, 13 prime contractors told us that they provided financial support to DBE subcontractors by lending equipment, materials, or funds to them. An American Subcontractor Association official told us that this type of financial support was often given by prime contractors to their DBE subcontractors.

## AGENCY AND OTHER COMMENTS

Written comments were received from the Colorado Department of Highways; Florida Department of Transportation; Illinois Department of Transportation; Maine Department of Transportation; New Hampshire Department of Public Works and Highways; and North Dakota State Highway Department. All six states generally concurred with the facts contained in the report. Each state, however, provided additional clarifying information on specific points that pertained to its respective state. These clarifications were incorporated into the report where appropriate.

On November 28, 1984, we met with officials representing FHWA and DOT to obtain the agencies' oral comments on the report. The officials stated that they were in general agreement with the report and made suggestions to clarify certain specific points. Where appropriate, these comments were incorporated into the report.

- - - -

We are providing copies of this report to the Secretary of Transportation; the Administrator, Federal Highway Administration; interested congressional committees; and other interested parties.

Ralph Dawson for

J. Dexter Peach
Director

(342754)

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ABBREVIATIONS

| | |
|---|---|
| DBE | Disadvantaged Business Enterprise |
| FHWA | Federal Highway Administration |
| GAO | General Accounting Office |
| MBE | Minority Business Enterprise |
| UMTA | Urban Mass Transit Administration |

## OBJECTIVES, SCOPE, AND METHODOLOGY

As requested in your June 20, 1983, letter and modified in subsequent discussions with your office, our objectives were to obtain information on:

--the number of DBEs certified by state and the types of information provided in state directories;

--the capabilities and expertise of existing DBEs in six states to perform highway work;

--use of out-of-state DBEs by the six states;

--training programs available for DBEs, including both public- and private-sector programs; and

--financial problems affecting DBEs' ability to participate in highway work, including problems with bonding, licensing, and prequalification.

We did our work primarily at FHWA headquarters in Washington, D.C., and its division offices and the state highway departments in the states of Colorado, Florida, Illinois, Maine, New Hampshire, and North Dakota. Our review included identifying the DBEs in selected states, obtaining pertinent data on these DBEs from state files, and determining contract awards and commitments to these DBEs (these data were not verified by GAO). The data obtained included the period from October 1982 to the most recent month that data were available at the time we started our review in each state. At a minimum we were able to obtain these data for the entire fiscal year 1983.

In order to include a diverse range of DBE programs, we selected states that were rural (Maine, New Hampshire, and North Dakota) and urban (Florida and Illinois), states that had reduced goals (Maine and New Hampshire), states that did not reach their goals in 1983 (Florida, Illinois, and North Dakota), and a state (Colorado) where a 10-percent goal was achieved. Our selections were based on preliminary data available as of August 1983 on goals established and achievements.

During our review we interviewed FHWA and Department of Transportation headquarters officials, FHWA regional and division officials having responsibility for oversight of the program, and state highway officials who carry out the program activities. We also interviewed officials and obtained data at the Small Business Administration and the Minority Business Development Agency in Washington, D.C., and field offices, if any, of those agencies in the six states.

We interviewed national officials of the Associated General Contractors of America, American Road and Transportation Builders Association, Minority Contractors Association, American Association of State Highway and Transportation Officials, and the

American Subcontractors' Association. We also interviewed numerous state and local groups either affiliated with these national organizations or representing the minorities and minority contractors in the six states.

In the six states included in our review, we interviewed 40 prime contractors who had contracts in fiscal year 1983 requiring the use of DBEs, and 71 DBE contractors who were certified with the states during the period covered by our review to obtain information on financial problems--bonding, licensing, etc.--encountered by DBEs. The DBEs interviewed were selected by random sample as follows: 11 in Florida, 10 each in Colorado and Illinois, and 9 each in Maine and New Hampshire. In addition, in North Dakota we interviewed 22 DBEs. This number of DBEs was interviewed because they were available at pre-bidding and training meetings that we attended and we took the opportunity to interview those present. They were not selected using a random sample. We also interviewed seven prime contractors in five of the six selected states (Colorado, Florida, Illinois, Maine, and New Hampshire): the four largest by value of contracts received having DBE goals, and three selected at random from among the remaining prime contractors. In North Dakota, we interviewed five prime contractors. These prime contractors were available at pre-bidding and training meetings that we attended. These samples were not sufficient to project the results to all prime contractors or DBEs.

The latest state DBE directories available provide general information concerning the number, location, and type of work of DBE firms certified to perform highway construction work in the United States. These directories were provided us in response to an FHWA request to the states, dated July 27, 1984, for the states' most current directories.

The determination of capabilities of DBEs in the six states was done by GAO analysis of data contained in the highway department records in each selected state. Sufficient data were not available in state or federal records for us to make a determination of DBEs' expertise to do highway work. Data on the types of work required to be done in these states were also obtained from this source.

Information on the efforts made to locate and use out-of-state DBEs was obtained by interviewing state highway officials and prime contractors in each selected state. We obtained data on the actual awards made to out-of-state DBEs from state highway records.

To obtain information on availability of training directed at DBEs we interviewed and obtained data from federal agencies, state highway officials, state support service officials, and minority and contractor organizations and associations at national and local levels. We also obtained information in our interviews with prime contractors and subcontractors.

Information on the financial problems encountered by DBEs and the effects of such problems was obtained through interviews with the federal and state agencies included in our review; national, state, and local organizations and associations; and the prime contractors and DBEs we selected. Information on the states' requirements for bonding, licensing, and prequalification for all 50 states; Washington, D.C.; and Puerto Rico was obtained from the states by FHWA at our request.

The information on the history of the DBE programs within FHWA and the goals and achievements nationally and for the six states we reviewed was obtained from interviews with officials and records of FHWA and Department of Transportation in Washington, D.C.

We performed our review in accordance with generally accepted government auditing standards. Our field work was conducted from October 1983 through September 1984.

## FHWA REQUIREMENTS FOR QUALIFYING A BUSINESS AS A DISADVANTAGED BUSINESS ENTERPRISE

When section 105(f) of the Surface Transportation Assistance Act of 1982 was passed, the Congress used the term "socially and economically disadvantaged individuals," the same term contained in section 8(d) of the Small Business Act. This definition is slightly different from that used previously in the MBE regulation, in that DBE regulations do not presume that persons with origins in Burma, Portugal, and Thailand are part of a socially and economically disadvantaged group. People with these origins were presumed disadvantaged under FHWA's previous MBE regulations.

After the passage of section 105(f), FHWA amended its MBE program regulations. The current DBE regulations are contained in Subpart D of 49 C.F.R. 23, 1984. Portions of these regulations on defining small businesses and socially and economically disadvantaged individuals (with brackets illustrating new SBA size regulations effective March 1984) are shown below.

"§23.62 Definitions

". . . 'Disadvantaged business' means a small business concern: (a) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"'Small business concern' means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"'Socially and economically disadvantaged individuals' means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. Recipients shall make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. Recipients also may determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged.

"(a) 'Black Americans,' which includes persons having origins in any of the Black racial groups of Africa;

"(b) 'Hispanic Americans,' which includes persons of Mexican, Puerto Rican, Cuban, Central or

South American, or other Spanish culture or origin, regardless of race;

"(c) 'Native Americans,' which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

"(d) 'Asian-Pacific Americans,' which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

"(e) 'Asian-Indian Americans,' which includes persons whose origins are from India, Pakistan, and Bangladesh."

. . . . .

"Appendix B--Determinations of Business Size

. . . . .

"In determining whether a business is a small business concern, recipients should apply the standards established by the Small Business Administration in 13 CFR Part 121. In particular, recipients should refer to § 121.3-8 (Definition of Small Business for Government Procurement) and § 121.3-12 (Definition of Small Business for Government Subcontractors). This Appendix lists the most frequent applications of these sections to the kinds of contracting done by FHWA and UMTA recipients. For information on types of businesses not listed in this Appendix (e.g., manufacturers), recipients should consult § 121.3-8 and the Appendices to 13 CFR Part 121.

"Recipients should apply the following size standards:

"1. Subcontracts of $10,000 or less: A business is small if, including its affiliates, it does not have more than 500 employees.

"2. Subcontracts over $10,000 and prime contracts:

"A business is regarded as small if it meets the following criteria:

"(a) Construction.

"(1) General Construction . . . The firm's average annual receipts for the three preceding fiscal years do not exceed $12 million [$17 million].

"(2) Special trade contractors:

| Type of firm | Maximum average annual receipts in preceding 3 fiscal years |
|---|---|
| "Plumbing, heating (except electric) and air-conditioning<br>Painting, paperhanging, and decorating<br>Masonry, stone setting, and other stonework<br>Plastering, drywall, acoustical and insulating work.<br>Terazzo, tile, marble, and mosaic work<br>Carpentering and flooring<br>Floor laying and other floorwork<br>Roofing and sheet metal work<br>Concrete work<br>Water well drilling<br>Structural steel erection<br>Glass and glazing work<br>Excavating and foundation work<br>Wrecking and demolition work<br>Installation or erection of buildings equipment<br>Special trade contractors, not elsewhere classified | $5 million [$7 million] for all types of contractors on this list |

"(b) Suppliers of manufactured goods: The firm, including its affiliates, must not have more than 500 employees.

"(c) Service contractors:

| Type of firm | Maximum average annual receipts in preceding 3 fiscal years (in millions of dollars) |
|---|---|
| "Engineering | $ 7.5 |
| Janitorial and custodial | 4.5 [6.0] |
| Computer programming and data processing services | 4.0 [7.0] |
| Computer related services | 7.0 [12.5] |
| Protective Services | 4.5 [6.0] |
| Others not mentioned in 13 CFR 121.3-8(e) | 2.0 [3.5]" |

APPENDIX III

## STATE-BY-STATE DBE GOALS AND ACHIEVEMENTS FOR FISCAL YEAR 1983

| State | State prorated share of national goal (percent) | Achievements (percent) | Actual DBE contract awards and commitments for fiscal year 1983[a] |
|---|---|---|---|
| Alabama | 7.7 | 11.4 | $17,638,509 |
| Alaska | 9.0 | 24.1 | 7,219,212 |
| Arizona | 9.3 | 13.0 | 14,066,202 |
| Arkansas | 8.0 | 9.0 | 8,355,200 |
| California | 13.0 | 13.1 | 54,863,763 |
| Colorado | 10.0 | 14.2 | 17,519,591 |
| Connecticut | 8.8 | 9.9 | 18,211,411 |
| Delaware | 8.3 | 6.3 | 2,186,376 |
| Dist. of Col. | 25.0 | 61.7 | 15,182,389 |
| Florida | 8.3 | 5.9 | 15,836,054 |
| Georgia | 9.1 | 8.6 | 29,249,571 |
| Hawaii | 17.0 | 23.7 | 14,650,519 |
| Idaho | 8.4 | 6.4 | 3,539,012 |
| Illinois | 8.3 | 6.1 | 27,793,065 |
| Indiana | 8.0 | 8.8 | 17,041,804 |
| Iowa | 7.8 | 4.4 | 8,700,415 |
| Kansas | 8.3 | 8.8 | 8,787,295 |
| Kentucky | 8.0 | 9.4 | 19,060,926 |
| Louisiana | 8.4 | 8.3 | 19,252,428 |
| Maine | 3.0 | 3.4 | 917,877 |
| Maryland | 10.0 | 13.0 | 29,116,432 |
| Massachusetts | 8.1 | 11.3 | 7,560,288 |
| Michigan | 8.8 | 11.6 | 25,281,614 |
| Minnesota | 8.0 | 3.9 | 5,859,518 |
| Mississippi | 8.1 | 10.6 | 12,320,383 |
| Missouri | 7.9 | 8.9 | 18,810,889 |
| Montana | 5.2 | 7.7 | 8,238,885 |
| Nebraska | 7.9 | 6.7 | 6,682,482 |
| Nevada | 9.0 | 67.9 | 17,487,933 |

Footnote on following page.

## STATE-BY-STATE DBE GOALS AND ACHIEVEMENTS FOR FISCAL YEAR 1983 (continued)

| State | State prorated share of national goal (percent) | Achievements (percent) | Actual DBE contract awards and commitments for fiscal year 1983[a] |
|---|---|---|---|
| New Hampshire | 3.0 | 3.7 | $ 1,129,085 |
| New Jersey | 8.3 | 9.0 | 13,547,287 |
| New Mexico | 9.0 | 9.2 | 10,800,232 |
| New York | 9.5 | 12.9 | 49,043,420 |
| North Carolina | 8.4 | 6.4 | 7,174,161 |
| North Dakota | 7.7 | 2.8 | 2,131,252 |
| Ohio | 8.8 | 15.2 | 36,850,142 |
| Oklahoma | 8.5 | 11.3 | 11,991,269 |
| Oregon | 8.8 | 13.2 | 18,002,712 |
| Pennsylvania | 8.3 | 8.4 | 29,895,710 |
| Puerto Rico | 98.9 | 100.0 | 15,017,731 |
| Rhode Island | 8.5 | 9.2 | 2,736,758 |
| South Carolina | 8.0 | 8.2 | 8,979,437 |
| South Dakota | 7.6 | 8.2 | 4,693,067 |
| Tennessee | 8.1 | 8.8 | 19,827,723 |
| Texas | 7.9 | 7.9 | 41,248,609 |
| Utah | 8.0 | 8.8 | 9,685,540 |
| Vermont | 7.8 | 8.5 | 2,705,368 |
| Virginia | 8.3 | 7.2 | 17,190,659 |
| Washington | 10.0 | 12.1 | 18,626,386 |
| West Virginia | 8.0 | 8.1 | 16,160,935 |
| Wisconsin | 8.0 | 5.5 | 7,800,000 |
| Wyoming | 7.6 | 4.6 | 3,140,466 |
| Total | 8.8 | 9.8 | $799,807,992 |

[a]Based on federal-aid share of prime contracts awarded to DBEs and commitments made by non-DBE prime contractors to DBEs for performance of subcontract work.

Source: information was provided by FHWA.

## DBE PROGRAM GOALS AND ACHIEVEMENTS IN SIX STATES

## FOR FISCAL YEAR 1983

| State | Program participation percentages 1983 goal | 1983 actual[a] |
|---|---|---|
| Colorado | 10.0 | 14.2 |
| Florida[b] | 8.3 | 5.9 |
| Illinois[b] | 8.3 | 6.1 |
| North Dakota[b] | 7.7 | 2.8 |
| Maine | 3.0[c] | 3.4 |
| New Hampshire | 3.0[c] | 3.7 |

[a]Based on federal-aid share of prime contracts awarded to DBEs and commitments made by non-DBE prime contractors to DBEs for the performance of subcontract work.

[b]These states submitted justification to FHWA for not achieving their 1983 goals. All three cited a lack of available certified DBEs as affecting their ability to meet their goals.

[c]These goals were approved by the Administrator of FHWA on the basis of requests from the states that contained their reasons for requesting goals at these levels.

Source: information was provided by FHWA.

APPENDIX V

## NUMBER OF DBEs AND TYPES OF INFORMATION PROVIDED ON DBEs IN ALL STATE DIRECTORIES

| State | No. of DBEs listed | | Directory dates | | Data contained in directories |
|---|---|---|---|---|---|
| | Total | Out-of-state | Latest | Issue period | |
| Alabama | 203 | 58 | 07-25-84 | Quarterly | A,C |
| Alaska | 186 | 28 | 07-31-84 | Semiannually | A,C,E,H,J,L |
| Arizona | 101 | 15 | 03-84 | Semiannually | A |
| Arkansas | 149 | 62 | 08-84 | Monthly | A |
| California | 496 | 10 | 05-16-84 | Quarterly | A,C,H,J |
| Colorado | 144 | 16 | 08-08-84 | Annually[a] | A,C,D |
| Connecticut | 152 | 58 | 08-14-84 | Continuously | A,B |
| Delaware | 112 | 58 | 06-14-84 | Monthly | A |
| Dist. of Col. | 540 | 10 | 12-82 | Annually[b] | A,C |
| Florida | 205 | 46 | 07-84 | Monthly | A,H |
| Georgia | 306 | 63 | 06-84 | Monthly | A,B |
| Hawaii | 252 | 6 | 08-83 | Annually | A |
| Idaho | 102 | 47 | 08-84 | Quarterly | A,E |
| Illinois | 306 | 48 | 02-17-84 | Irregular[c] | A,H,I |
| Indiana | 151 | 33 | 08-84 | Monthly | A,C,D,G,H,L |
| Iowa | 130 | 52 | 08-84 | Monthly | A |
| Kansas | 139 | 58 | 09-18-84 | 6-8 weeks | A |
| Kentucky | 67 | 19 | 08-20-84 | Annually[d] | A |
| Louisiana | 202 | 43 | 07-02-84 | Monthly | A |
| Maine | 31 | 18 | 07-84 | Monthly | A |
| Maryland | 355 | 101 | 11-83 | Annually[a] | A,B,F,H,L |
| Massachusetts | 64 | 8 | 08-27-84 | Irregular | A |
| Michigan | 545 | 235 | 02-10-84 | Quarterly[d] | A |
| Minnesota | 134 | 29 | 08-15-84 | Monthly | A |
| Mississippi | 116 | 52 | 06-01-84 | Quarterly[b] | A |
| Missouri | 139 | 39 | 03-21-84 | As needed | A |
| Montana | 89 | 22 | 09-83 | Annually | A,D,E,F,I,J |
| Nebraska | 109 | 50 | 09-06-84 | As needed | A,C |
| Nevada | 268 | 30 | 06-84 | Annually[a] | A,E,F,G,I,J,K |

Footnotes on following page.

## NUMBER OF DBEs AND TYPES OF INFORMATION PROVIDED ON DBEs IN ALL STATE DIRECTORIES (continued)

| State | No. of DBEs listed | | Directory dates | | Data contained in directories |
|---|---|---|---|---|---|
| | Total | Out-of-state | Latest | Issue period | |
| New Hampshire | 42 | 35 | 08-84 | Monthly | A |
| New Jersey | 123 | 30 | 08-17-84 | Monthly | A,D |
| New Mexico | 120 | 23 | 04-84 | Semiannually[a] | A,H |
| New York | 256 | 20 | 05-84 | Quarterly | A,G,I,K |
| North Carolina | 159 | 34 | 05-23-84 | Annually[b] | A,D |
| North Dakota | 47 | 3 | 08-83 | Annually[b] | A,D,F,G,H,I |
| Ohio | 173 | 12 | 08-06-84 | Monthly | A |
| Oklahoma | 72 | 18 | 08-24-84 | Monthly | A |
| Oregon | 185 | 43 | 09-84 | Monthly | A |
| Pennsylvania | 421 | 181 | 08-84 | Bimonthly | A,C,D,H |
| Puerto Rico | No directory has been issued | | | | |
| Rhode Island | 33 | 16 | 08-01-84 | Annually[d] | A |
| South Carolina | 136 | 39 | 06-19-84 | Annually[b] | A,D |
| South Dakota | 116 | 40 | 01-84 | Annually | A,E,G,H |
| Tennessee | 153 | 44 | 01-84 | Annually | A |
| Texas | 444 | 37 | 07-84 | Quarterly[b] | A,C |
| Utah | 57 | 9 | 08-13-84 | As needed | A,G,L |
| Vermont | 74 | 58 | 07-19-84 | Semiannually | A |
| Virginia | 349 | 120 | 06-27-84 | Quarterly[d] | A,C |
| Washington | 280 | 30 | 05-84 | Semiannually | A |
| West Virginia | 120 | 91 | 07-20-84 | As needed | A |
| Wisconsin | 168 | 62 | 02-84 | Quarterly | A,F |
| Wyoming | 66 | 42 | 06-20-84 | Annually | A,H,L |
| Total | 9,387 | 2,281 | | | |

Source: individual state DBE directories.

[a]Supplement or addendum issued quarterly.
[b]Supplement or addendum issued monthly.
[c]Supplement or addendum issued each bid letting.
[d]Supplement or addendum issued but not at set intervals.

APPENDIX V

Explanation of symbols under "Data contained in directories" column of appendix V:

- A Name, address, and type of work performed
- B Original certification date
- C Certification expiration date
- D Prequalification status
- E Bonding availability and/or limits
- F Number of employees
- G Equipment available
- H Work location preference
- I Year business started or number of years in business
- J License status
- K Type of business (sole proprietor, partnership, corporation)
- L Size of job that can be handled

## DBE CONTRACTORS' TYPES OF WORK PERFORMED AND CAPABILITY TO PERFORM TYPES OF WORK REQUIRED BY STATES

(in thousands of dollars)

### COLORADO

| Types of work required | | Capability of DBEs to perform work required | | Type of work performed by actively bidding DBEs | |
|---|---|---|---|---|---|
| Work type | Amount[a] | Number[b] | Sales volume[c] | Number[d] | Sales Volume[c] |
| Services | $ 13,900 | 18 | $ 9,928 | 1 | $ 400 |
| Mobilization[e] | 6,600 | 0 | 0 | 0 | 0 |
| Materials[f] | 0 | 2 | 08 | 0 | 0 |
| Site preparation | 5,334 | 2 | 453 | 1 | 453 |
| Road construction | 88,002 | 58 | 69,733 | 40 | 60,598 |
| Bridge construction | 38,777 | 7 | 3,075 | 5 | 2,795 |
| Landscaping | 2,675 | 7 | 659 | 3 | 327 |
| Traffic control | 9,292 | 8 | 813 | 6 | 813 |
| Rest area | 220 | 3 | 220 | 0 | 0 |
| Other construction | 12,963 | 11 | 3,228 | 5 | 1,937 |
| Total | $177,763 | 116 | $88,109 | 61 | $67,323 |

Ten percent of state's required work--$17,776

### FLORIDA

| Types of work required | | Capability of DBEs to perform work required | | Type of work performed by actively bidding DBEs | |
|---|---|---|---|---|---|
| Work type | Amount[a] | Number[b] | Sales volume[c] | Number[d] | Sales Volume[c] |
| Services | $ 25,312 | 30 | $ 25,312 | 11 | $20,788 |
| Mobilization[e] | 13,309 | 0 | 0 | 0 | 0 |
| Materials[f] | 0 | 4 | 3148 | 0 | 0 |
| Site preparation | 12,848 | 1 | 4,700 | 0 | 0 |
| Road construction | 205,705 | 33 | 63,403 | 21 | 46,081 |
| Bridge construction | 70,229 | 10 | 13,540 | 7 | 12,825 |
| Landscaping | 6,970 | 12 | 4,344 | 6 | 3,817 |
| Traffic control | 32,415 | 3 | 1,213 | 2 | 1,213 |
| Rest area | 1,611 | 9 | 1,611 | 4 | 1,611 |
| Other construction | 19,812 | 13 | 8,024 | 5 | 4,615 |
| Total | $388,211 | 115 | $122,461 | 56 | $90,950 |

Ten percent of state's required work--$38,821

DBE CONTRACTORS' TYPES OF WORK PERFORMED AND CAPABILITY TO PERFORM TYPES OF WORK REQUIRED BY STATES (continued)

(in thousands of dollars)

ILLINOIS

| Types of work required | | Capability of DBEs to perform work required | | Type of work performed by actively bidding DBEs | |
|---|---|---|---|---|---|
| Work type | Amount[a] | Number[b] | Sales volume[c] | Number[d] | Sales Volume[c] |
| Services | $ 40,128 | 77 | $40,128 | 11 | $ 11,429 |
| Mobilization[e] | not shown | 0 | 0 | 0 | 0 |
| Materials[f] | 0 | 22 | 5,609[g] | 6 | 2,295[g] |
| Site preparation | 0 | 0 | 0 | 0 | 0 |
| Road construction | 471,819 | 125 | 66,256 | 95 | 54,637 |
| Bridge construction | 169,755 | 31 | 21,978 | 22 | 20,700 |
| Landscaping | 10,966 | 12 | 2,736 | 7 | 2,503 |
| Traffic control | 41,158 | 6 | 1,129 | 4 | 1,129 |
| Rest area | 0 | 5 | 0 | 2 | 0 |
| Other construction | 90,164 | 46 | 25,511 | 33 | 20,608 |
| Total | $823,990 | 324 | $163,347 | 180 | $113,301 |

Ten percent of state's required work--$82,399

MAINE

| Types of work required | | Capability of DBEs to perform work required | | Type of work performed by actively bidding DBEs | |
|---|---|---|---|---|---|
| Work type | Amount[a] | Number[b] | Sales volume[c] | Number[d] | Sales Volume[c] |
| Services | $ 1,645 | 5 | $ 0 | 2 | $ 0 |
| Mobilization[e] | 1,713 | 0 | 0 | 0 | 0 |
| Materials[f] | 0 | 2 | 240[g] | 0 | 0 |
| Site preparation | 496 | 0 | 0 | 0 | 0 |
| Road construction | 27,163 | 9 | 7,141 | 6 | 5,259 |
| Bridge construction | 4,784 | 3 | 4,784 | 2 | 1,467 |
| Landscaping | 935 | 0 | 0 | 0 | 0 |
| Traffic control | 1,571 | 1 | 105 | 1 | 105 |
| Rest area | 0 | 0 | 0 | 0 | 0 |
| Other construction | 1,807 | 2 | 1,161 | 0 | 0 |
| Total | $40,114 | 22 | $13,431 | 11 | $6,831 |

Ten percent of state's required work--$4,001

DBE CONTRACTORS' TYPES OF WORK PERFORMED AND CAPABILITY TO PERFORM TYPES OF WORK REQUIRED BY STATES (continued)

(in thousands of dollars)

NEW HAMPSHIRE

| Type of work required | | Capability of DBEs to perform work required | | Type of work performed by actively bidding DBEs | |
|---|---|---|---|---|---|
| Work type | Amount[a] | Number[b] | Sales volume[c] | Number[d] | Sales Volume[c] |
| Services | $ 575 | 9 | $ 0 | 0 | $ 0 |
| Mobilization[e] | 3,062 | 0 | 0 | 0 | 0 |
| Materials[f] | 0 | 3 | 3268 | 1 | 2508 |
| Site preparation | 0 | 1 | 0 | 0 | 0 |
| Road construction | 25,673 | 13 | 18,852 | 9 | 16,292 |
| Bridge construction | 12,864 | 5 | 11,118 | 1 | 410 |
| Landscaping | 986 | 0 | 0 | 0 | 0 |
| Traffic control | 1,246 | 1 | 355 | 0 | 0 |
| Rest area | 205 | 3 | 180 | 1 | 180 |
| Other construction | 2,379 | 1 | 0 | 0 | 0 |
| Total | $46,990 | 36 | $30,831 | 12 | $17,132 |

Ten percent of state's requirements--$4,699

NORTH DAKOTA

| Types of work required | | Capability of DBEs to perform work required | | Type of work performed by actively bidding DBEs | |
|---|---|---|---|---|---|
| Work type | Amount[a] | Number[b] | Sales volume[c] | Number[d] | Sales Volume[c] |
| Services | $ 1,000 | 2 | $ 55 | 0 | $ 0 |
| Mobilization[e] | 3,515 | 0 | 0 | 0 | 0 |
| Materials[f] | 5 | 3 | 2,0448 | 0 | 0 |
| Site preparation | 2,693 | 1 | 200 | 1 | 200 |
| Road construction | 71,523 | 33 | 18,392 | 16 | 10,221 |
| Bridge construction | 9,260 | 0 | 0 | 0 | 0 |
| Landscaping | 737 | 0 | 0 | 0 | 0 |
| Traffic control | 2,787 | 8 | 1,317 | 4 | 225 |
| Rest area | 0 | 0 | 0 | 0 | 0 |
| Other construction | 1,551 | 2 | 375 | 1 | 100 |
| Total | $93,071 | 49 | $22,383 | 22 | $10,702 |

Ten percent of state's requirements--$9,307

Footnotes to appendix VI.

[a]Data shown are actual construction contract amounts by type of work in calendar year 1983 as obtained from state highway department personnel, except for New Hampshire, which figures are actual award data for the fiscal year as shown by bid and award abstracts. These amounts include both federal and state-only funded contracts in all states except New Hampshire. Service amounts are high-way department estimates for 1984. These 1984 data were used because they were the most readily available.

[b]DBEs who can perform more than one type of work as shown by DBEs in their cer tification application. DBEs showing more than one type of work are included only in the type of work having the greatest requirements by the state. Total number shown is the total number of certified DBEs in the state. The data were not verified by GAO.

[c]Estimated sales volume in this column is the latest data in the state files as reported by the DBE, or amount of awards or commitments received if that results in a higher figure. The sales volume figure represents the dollar volume of business generated by a DBE performing similar types of work generally associated with highway construction, i.e. landscaping, paving, grading, etc. This figure also includes contracts for federal, state, local and private work undertaken by the DBEs. Sales volume data reported by DBEs were not verified by GAO.

[d]Includes only the DBEs that have been actively bidding on highway contracts based on data in state files or personal knowledge of highway or contractor personnel, and DBEs who have expertise indicated by the fact they have received awards, have bonding capability, or have been prequalified by the state. The bonding capability data is based on that reported by the DBE in certification applications and was not verified by GAO. Award data and prequalification data were taken from state records.

[e]Mobilization includes costs contractors incur in moving personnel and equipment to the job site. Costs do not relate to work items, so they are established as a separate bid item with a separate pay schedule.

[f]Materials are not normally a separate work item but are included by the state in the type of work in which the materials are used; for example, asphalt material used in road construction would be included in the road construction total.

[g]According to Department of Transportation regulations, only 20 percent of the total sales volume classified as materials can be counted toward the DBE goals. The remaining 80 percent of the sales volume is included in other work type categories in which the materials are used, i.e., bridge construction, road construction, etc.

Source: generally obtained from information provided by DBEs maintained in state records. Other data developed by analysis of state records by GAO.

## SOURCES AND TYPES OF TRAINING AND ASSISTANCE AVAILABLE TO DISADVANTAGED BUSINESSES IN SIX STATES

| Provider and type | Colorado | Florida | Illinois | Maine | N. Hamp. | No. Dak. |
|---|---|---|---|---|---|---|
| State highway department including support services contractor: | | Prior to 9/83[a] | | | | |
| Training seminars/workshops[b] | A(3) | P | A | P | | A(24) |
| Management/technical assistance[c] | A | X | A | X | X | A(20) |
| Contract administration/problem resolution[d] | | | (189)[h] A | | | A(2) |
| Financial assistance[e] | | A | X | | X | A(13) |
| On-the-job training[f] | | P | X | P | | |
| Financial support[g] | | | | | | |
| Small Business Administration: | | | | | | |
| Training seminars/workshops | X | X | X | X | X | A(9) |
| Management/technical assistance | A(25) | X | X | X | X | |
| Financial assistance | A(4) | X | A | X | | |
| Financial support | X | X | A | X | X | X |
| Minority Business Development Agency: | | | | None | None | None |
| Management/technical assistance | A | X | A(8) | | | |
| Financial assistance | A(18) | | A | | | |
| Program Management Centers: (Department of Transportation) | | | | | | |
| Training seminars/workshops | A(6) | | | | | |
| Technical assistance | | X | X | | | |
| Financial assistance | A(2) | X | A(1) | | | A(2) |
| Financial support | X | X | X | X | X | X |
| Prime contractors: | | | | | | |
| Technical assistance | | A | A | | | |
| On-the-job training | A | | A | A | A | X |
| Financial assistance | | | A | | | X |
| Financial support | A | A | A | A | | A |
| Other | | | | | | |
| Association of General Contractors: | | | | | | |
| Management training | | | | | | A(10) |
| Southern Ill. Cont. Assoc: | | | | | | |
| Contributed to training course for DBEs | | | A(17) | | | |

Footnotes are on following page.

Footnotes to appendix VII.

[a]These items were done by the support services contractor until August 1983 when the contract was terminated. The state has not continued with any of these items since that time.

[b]Training seminars and workshops are group sessions on various subjects--management, supervisory, technical, financial, or other skills necessary to operate a business.

[c]Management and technical assistance involves working with an individual DBE on a specific problem or need of the DBE.

[d]Contract administration and problem resolution are assisting a DBE with matters pertaining to a particular contract, including helping to resolve conflicts arising between the DBE and other party to the contract.

[e]Financial assistance is assisting a DBE in obtaining financing or bonding by referral and helping the DBE to prepare financial or other statements and documents necessary for bond and loan applications.

[f]On-the-job training involves giving advice and assistance to a DBE on handling the requirements of a specific job situation.

[g]Financial support is making advance of funds, or lending equipment or other resources to the DBE.

[h]Data did not provide breakdown for each category.

Symbols used in the table:

A: Known to be used by one or more DBEs in recent years as shown by records of agency giving the training. Number shown is the number of DBEs known to have used the training or assistance.

P: Not available at the time of our review but is being proposed or planned for future implementation.

X: Known to be offered to DBEs, but data are not available on actual use by DBEs.

Source: interviews with respective officials and GAO analysis of documents provided by those officials.

## BONDING REQUIREMENTS OF THE 50 STATES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO

| | Prime contractors | | Subcontractors |
|---|---|---|---|
| State | Amount required[a] | Special conditions | Amount required[a] |
| Alabama | 100% performance bond; 50% payment | | None |
| Alaska | 50% of contract | $100,000 or less exempt | None |
| California | 50% of contract for performance bond | Amount varies for payment bond; 50% up to $2.5 million maximum | None |
| Colorado | Total contract | $50,000 or less can be waived | None |
| D.C. | Payment bond: 50% from $2000 up to $1 million; 40% up to $5 million; $2.5 million bond if over $5 million. Performance bond: 100% over $2,000 | | None |
| Indiana | Total contract | Certain types of work of $100,000 or less exempt | None |
| Iowa | Total contract | $5000 and less exempt | None |
| Michigan | Total contract | 50% if $100,000 or less | None |
| New Mexico | Total contract | 50% of contract if a DBE | None |
| Ohio | Total contract | | May be required if prime not prequalified |
| Oklahoma | 5% of contract | | None |
| Puerto Rico | 50% of contract | | None |
| South Carolina | 100% performance bond; 50% payment | | None |
| Texas | Total contract | Contracts $25,000 or less exempt | None |
| Virginia | Total contract | Contracts $25,000 or less exempt | 100% payment bond on over $1 million |
| Washington | Total contract | District-level contracts of $50,000 or less exempt | None |
| All other states | Total contract | | None |

[a]Unless otherwise stated amount is for both performance and payment bonds.

Source: Information was provided by FHWA.



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## LICENSING REQUIREMENTS

| State | Prime contractors | | Subcontractors | |
|---|---|---|---|---|
| | Required? | Type of license | Required? | Type of license |
| Alabama | Yes | Road and street | No | |
| Alaska | Yes | Contractors or type of work | Yes | Contractors or type of work |
| Arkansas | Yes | Contractors, over $20,000 | Yes | Contractors, over $20,000 |
| California | Yes | Contractors | Yes | Type of work |
| Delaware | Yes | Contractors | Yes | Contractors |
| Hawaii | Yes | Type of work | Yes | Type of work |
| Idaho | Yes | Type of work | Yes | Type of work |
| Louisiana | Yes | Contractors | Yes | Contractors, over $50,000 |
| Maryland | Yes | License issued by county | No | |
| Montana | Yes | Type of work | Yes | Type of work |
| Nevada | Yes | Type of work | Yes | Type of work |
| New Hampshire | Yes | Certain technical trades, i.e., electrical, plumbing, etc. | Yes | Certain technical trades, i.e., electrical, plumbing, etc. |
| New Jersey | Yes | Electrical only | Yes | Electrical only |
| New Mexico | Yes | Contractors | Yes | Contractors |
| North Dakota | Yes | Contractors, over $500 | Yes | Contractors, over $500 |
| Oregon | Yes | Landscaping only | No | |
| South Carolina | Yes | Contractors | No | |
| South Dakota | Yes | Electrical | Yes | Electrical |
| Utah | Yes | Contractors | Yes | Contractors |
| Vermont | Yes | Land survey and design consultants only | No | |
| Wyoming | Yes | Licensed electricians (where needed) | Yes | Licensed electricians (where needed) |
| All other states | No | | No | |

Source: information was provided by FHWA.

APPENDIX X

## PREQUALIFICATION REQUIREMENTS

| State | Prime contractors | | Subcontractors | |
|---|---|---|---|---|
| | Required? | Exceptions and comments | Required? | Exceptions and comments |
| Alabama | Yes | | No | |
| Alaska | No | | No | |
| Arizona | Yes | Projects under $50,000 and "specialty" work exempt | No | |
| Arkansas | Yes | | No | |
| California | No | | No | |
| Hawaii | Yes | | No | |
| Colorado | Yes | | No | |
| Connecticut | Yes | | No | |
| D.C. | No | | No | |
| Delaware | Yes | May be waived | No | |
| Florida | Yes | Except buildings where not exceeding $150,000 | No | |
| Georgia | Yes | May be waived under $250,000 | No | But registration, a similar process, is required |
| Idaho | Yes | | Yes | |
| Illinois | Yes | | No | |
| Indiana | Yes | | Yes | Only if over $25,000 |
| Iowa | Yes | Projects under $50,000 and certain types of work exempt | No | |
| Kansas | Yes | | No | |
| Kentucky | Yes | | Yes | |
| Louisiana | No | | No | |
| Maine | No | Must have had contract within past 5 years, or financial statement is required | No | |
| Maryland | No | | No | |
| Massachusetts | Yes | Exempted under $50,000 | No | |
| Michigan | Yes | Except for DBE set-aside and non-highway work such as a building | Yes | Except for DBE set-aside and non-highway work such as a building |
| Minnesota | No | | No | |
| Mississippi | No | | No | |
| Missouri | No | | No | |
| Montana | Yes | Waived for specialty work as carpentry, rest area work, etc. | Yes | Projects under $50,000 exempt, higher amounts may be waived |
| Nebraska | Yes | | No | |
| Nevada | Yes | | No | |
| New Hampshire | Yes | | No | Resume may be requested |
| New Jersey | Yes | | Yes | If project over $100,000 or combination of projects over $200,000, or if doing landscaping |

## PREQUALIFICATION REQUIREMENTS

| State | Prime contractors | | Subcontractors | |
|---|---|---|---|---|
| | Required? | Exceptions and comments | Required? | Exceptions and comments |
| New Mexico | Yes | Projects under $250,000 excepted. Under $500,000, conditional prequalification used. | No | |
| New York | No | | No | |
| North Carolina | Yes | | Yes | |
| North Dakota | Yes | | No | |
| Ohio | Yes | | Yes | |
| Oklahoma | Yes | | No | Financial stability must be approved |
| Oregon | Yes | May waive under $50,000 | No | |
| Pennsylvania | Yes | | Yes | If have specific pay item |
| Puerto Rico | No | | No | |
| Rhode Island | No | | No | |
| South Carolina | Yes | Except for "specialty" items | No | |
| South Dakota | Yes | Exempted for $100,000 or less | No | |
| Tennessee | Yes | | No | |
| Texas | Yes | May except financial prequalification under $200,000 | No | |
| Utah | Yes | Exempted for $500,000 or less | No | |
| Vermont | Yes | | No | |
| Virginia | Yes | Occasional "specialty" jobs excepted | Yes | If over $1 million |
| Washington | Yes | | No | |
| West Virginia | Yes | Simplified procedures under $200,000 | No | |
| Wisconsin | Yes | Special, low-cost projects have been waived in past | No | |
| Wyoming | Yes | Off-system federal aid work under $100,000 exempt | No | |

Source: Information was provided by FHWA.

APPENDIX XI

# STATE OF COLORADO

DEPARTMENT OF HIGHWAYS

4201 East Arkansas Ave.
Denver, Colorado 80222
(303) 757-9011

October

Mr. J. Dexter Peach, Director
Resources, Community and Economic
Development Division
U.S. General Accounting Office
441 G Street, NW - Room 4915
Washington, D.C. 20548

Dear Mr. Peach:

The Colorado Department of Highways has reviewed the U.S. General Accounting Office's draft report entitled Information on the Federal Highway Administration's Disadvantaged Business Enterprise Program. This report presents an accurate picture of the Colorado Department of Highways DBE Program. There are, however, additional comments that the Department would like to make in regard to the FHWA DBE Program.

It must be understood that the capabilities and expertise of actively bidding DBE dollars, represented on page 13, Appendix VI, may not relate to the number of contracts a DBE may receive in our low bid competitive process. Even though a DBE may have the capability to do the work and may be bidding work, that DBE may not be the low bidder obtaining the contract. The report also stressed that Sales Volume C in the same chart includes work for other federal, state and local agencies, and private contracts that the DBE may have obtained.

[GAO COMMENT: We have added Colorado's comments concerning the impact of the low bid competitive process to our report. (See p. 7.) With reference to the sales volume figure, we clarified that the figure represents the dollar volume of business generated by a DBE performing similar types of work generally associated with highway construction, i.e., landscaping, paving, grading, etc. The figure also includes contracts for federal, state, local, and private work undertaken by the DBEs. (See app. VI, footnote C.)]

The report does not discuss DBE firms that have gone out of business or are in financial trouble because they have over-extended themselves to get STAA dollars. If this type of information is available, it should be discussed in the report.

Non-minority small business specialty firms that are affected by the FHWA DBE program are not mentioned in the report. Because DBE firms concentrate on specific types of highway construction work (such as Landscaping, Guardrail, Fencing, Traffic Control, Flagging and Concrete work), non-minority specialty firms have indicated to the Department that the DBE Program has hurt their businesses. Perhaps this issue should be discussed in the report if information is available.

[GAO COMMENT: Neither of these matters was within the scope of our review. Consequently, we did not obtain information on them and cannot discuss them in our report.]

APPENDIX XI

The Colorado Department of Highways would like to thank you for this opportunity to review the report and offer comments. If you have further questions in regard to this matter, please contact Ms. Barbara A. Stephens at (303) 757-9234.

Sincerely,

JOE DOLAN
Executive Director

APPENDIX XII

Florida Department of Transportation

BOB GRAHAM
GOVERNOR

Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32301-8064, Telephone (904) 488-8541

PAUL N. PAPPAS
SECRETARY

November 21, 1984

Mr. J. Dexter Peach, Director
Resources, Community, and Economics
Development Division
U. S. General Accounting Office
441 G Street, Northwest - Room 4915
Washington, D. C. 20548

Dear Mr. Peach:

Re: Information on the Federal Highway Administration's Disadvantaged Business Enterprise Program

The draft report deals with the problems faced by both DBEs and the State Department of Transportation in implementing section 105(f) of the Surface Transportation Assistance Act of 1982. We are in general agreement with the findings of the study. The Florida Department of Transportation is in the process of selecting a consultant contractor to provide a comprehensive DBE/MBE Master Plan (both short and long-range plans) which will include all facets of the DBE program. This Master Plan will assist the Department in implementation of the program in a systematic manner.

Thank you for the opportunity to comment on the proposed report.

Sincerely,

Paul N. Pappas
Secretary

PNP/no

**Illinois Department of Transportation**
Office of the Secretary
2300 South Dirksen Parkway/Springfield, Illinois/62764
Telephone 217/782-5597

November 2, 1984

Mr. J. Dexter Peach, Director
Resources, Community and Economic
Development Division
U.S. General Accounting Office
441 G Street, N.W. - Room 4915
Washington, D.C. 20548

Dear Mr. Peach:

Thank you for your letter of October 1, 1984 concerning your draft report on the Federal Highway Administration's Disadvantaged Business Enterprise Program.

In reviewing the draft we found two items we feel need closer attention. In Appendix VI, Capabilities and Expertise of DBEs in Illinois, the reported figures are based on the DBEs' own tabulations and cannot be substantiated by this Department. The sales volume figure may include capabilities to perform work other than highway construction.

[GAO COMMENT: We have revised our report to clearly state that the DBE's reported data were not verified by GAO or the state. The sales volume figure represents the dollar volume of business generated by a DBE performing similar types of work generally associated with highway construction, i.e. landscaping, paving, grading, etc. The figure also includes contracts for federal, state, local, and private work undertaken by the DBEs. (See app. VI footnote C.)]

In reference to slow payment to prime contractors by the City of Chicago, we have on several occasions met with city officials to suggest ways to improve their payment procedures. The city, as a self-governing entity, retains the final decision making authority.

[GAO COMMENT: We have revised the report to reflect this language. (See p. 14.)

APPENDIX XIII

We trust these comments will prove constructive. If you need further information, please feel free to contact us.

Sincerely,

John D. Kramer

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION BUILDING
STATE HOUSE STATION 16 AUGUSTA MAINE 04333

DANA F. CONNORS
Commissioner

October 15, 1984

Mr. J. Dexter Peach, Director
Resources, Community, and Economic
Development Division
U.S. General Accounting Office
441 G Street, NW - Room 4915
Washington, D.C. 20548

Dear Mr. Peach:

We have received and reviewed your draft report, Information on the Federal Highway Administration's Disadvantaged Business Enterprise Program.

Since your request is limiting in that we are to comment only on those sections which pertain to Maine's DBE program, we offer the following:

1. Page 9, para. 5 states that during 1983 MDOT offered no technical assistance to DBEs. This is not correct. Our staff, as opposed to supportive service consultants, provided technical assistance to DBEs during 1983. MDOT has expanded upon this through the use of various consultant experts who are called upon to assist DBEs on an as-needed basis since 1984.

   [GAO COMMENT: The basis for this material was statements to us by Maine Department of Transportation officials. We have revised the report to clarify this point. (See p. 9.)]

2. Page 9, para. 5 states that MDOT requires contractors to provide technical assistance. A more accurate statement would be that contractors have been required to provide technical assistance from time to time as the result of conciliation agreements struck between the contractor and the State when the contractor failed to meet a goal and could not sufficiently substantiate good faith effort. Further, MDOT has instituted - in FY'84 - its Training Incentive Program. The T.I.P. is a formalized amendment to a project's contract whereby MDOT purchases the provision of technical assistance from the prime directly to a DBE.

   [GAO COMMENT: The report has been revised to reflect Maine's implementation of this program. (See p. 9.)]

APPENDIX XV

Thank you for sharing the draft report.

Sincerely,

Dana F. Connors,
Commissioner

/bjj

The Maine Department of Transportation is an Affirmative Action-Equal Opportunity Employer.

APPENDIX XV

STATE OF NEW HAMPSHIRE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
JOHN O. MORTON BUILDING
CONCORD, N.H. 03301

JOHN A. CLEMENTS, P.E.
COMMISSIONER

November 21, 1984

Mr. J. Dexter Peach, Director
Resources, Community, and Economic
Development Divisioin
U. S. General Accounting Office
441 G Street, NW - Room 4915
Washington, D. C. 20548

Dear Mr. Peach:

The New Hampshire Department of Public Works and Highways offers your office an apology for the deliquency of this commentary on the draft report entitled Information on the Federal Highway Administration's Disadvantaged Business Enterprise Program.

Review of the draft report indicates that it is a very complete and accurate report with regard to New Hampshire's program. It should be pointed out that although New Hampshire's listed certified DBE's probably have the capabilities and expertise to perform 10% of the highway work needed, only 5 DBE firms of 19 listed have been actively participating in the New Hampshire program. The results of this limited activity could result in future limitations as to capacity of those firms.

It should be further pointed out that the goal attained through July 20, 1984 of 11.6% was accomplished by having two out-of-state DBE's awarded four major projects as prime low bidders. This factor cannot be presumed for future bidding and may create a lower goal attainment in the future.

Enclosed for your information is a copy of New Hampshire's current directory with the active WBE & DBE firms highlighted.

Sincerely,

John A. Clements,
Commissioner
New Hampshire Department of
Public Works and Highways

JAC:rg

APPENDIX XVI

October 30, 1984

Mr. J. Dexter Peach, Director
Resources, Community, and Economic
Development Division
U.S. General Accounting Office
Room 4915
441 G Street, Northwest
Washington, DC 20548

Dear Mr. Peach:

I have received the draft copy of the General Accounting Office's report entitled Information on the Federal Highway Administration's Disadvantaged Business Enterprise Program and appreciate the opportunity to respond to the data provided.

In review of the report, I feel that the GAO audit team reviewing our program did a good job explaining some of the problem areas which have been encountered by DBEs in North Dakota. I do, however, take exception to the last sentence found on page 2 which reads:

> "Data contained in state and federal records for the six states reviewed--Colorado, Florida, Illinois, Main, New Hampshire, and North Dakota--indicate that capabilities and expertise exist among the certified DBEs to perform 10 percent of the highway work needed by these states."

The data provided to the GAO audit team does not reflect the conditions that exist in North Dakota. The examples of financial capabilities, contract awards, and bonding history were not verified by on-site visits or by certified financial statements. Many of the firms listed are specialty contractors which are rarely utilized in highway construction.

My concern is, if the report is not carefully read and evaluated in its entirety, this statement makes it appear that our state had the capability of meeting the 10 percent mandatory goal.

[GAO COMMENT: The sentence on page 2 was revised to (1) delete the reference to expertise of DBEs to perform 10 percent of the highway work and (2) recognize that sufficient data were not available in federal and state records to determine the DBEs' expertise to do highway work. In addition, a statement was included in the objectives, scope, and methodology section (see p. 1 of app. I) that data obtained in federal and state records were not verified by GAO. Also the report was reorganized, in several sections, to more clearly delineate the limitations of DBEs in bidding on highway contract work and the impact this may have on the state's ability to meet the minimum 10-percent requirement. (See p. 6.) Finally, as to the state's concern about specialty contractors rarely being used in highway construction, our analysis included only those contractors that had bid or received highway contract awards.]

APPENDIX XVI

Mr. J. Dexter Peach
Page Two
October 30, 1984

I would like a copy of the material supporting the statement found on page 2. Also, I would like to go on record that I do not believe our state had the capabilities to meet the 10 percent DBE goal at the time of the audit.

If you have any questions regarding these comments, please feel free to contact me at 701-224-2581.

Sincerely,

Ray Link

signing in behalf of and for the State Highway Commissioner

Duane R. Liffrig
Highway Commissioner

40:DJI:jal